

In re Application of: Yoram REITER et al
Serial No.: 10/510,229
Filed: October 13, 2004
Office Action Mailing Date: February 24, 2009

Examiner: Zachariah LUCAS
Group Art Unit: 1648
Attorney Docket: 28429

REMARKS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 141-160 and 197-214 are in this Application. Claims 150 and 200-211 have been withdrawn from consideration. Claim 199 has been rejected under 35 U.S.C. §112. Claims 141-149, 151-160, 197, 198, 212-214 have been rejected under 35 U.S.C. §103(a). Claim 199 has been amended herewith. Claims 141-160, 197-198, 200-214 have been cancelled herewith. New claim 215 has been added herewith.

35 U.S.C. §112 Rejections

The Examiner has rejected claim 199 under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for methods of killing or damaging cells if the antibody includes a domain such as that described in lines 6-7 of claim 1, does not reasonably provide enablement for the use of an antibody or fragment thereof capable only of binding the target MHC/peptide complexes. The Examiner states that the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to practice the invention commensurate in scope with these claims. The Examiner's rejection is respectfully traversed.

In order to expedite prosecution of this case, Applicants have amended claim 199 to include the limitation of: "*and a domain allowing said antibody or antibody fragment to kill the target human cell*", to thereby overcome Examiner's rejection.

Accordingly, Applicants have added new claim 215. Support for new claim 215 can be found in previously presented claim 142.

35 U.S.C. §103 Rejections

Reiter, Andersen and Chames

The Examiner has rejected claims 141-149, 151-155, 158, 159, 212 and 213-214 under 35 U.S.C. §103(a) as being unpatentable over Reiter (1997, PNAS 94:4631-36), further in view of Andersen (WO Publication No. 97/02342) and Chames (2000,

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PNAS 97:7969-74). Specifically, the Examiner states that the claims have been amended to require that the antibody to which the cell is exposed is a soluble antibody. The Examiner further states that new claims 213 and 214, which require that the antibodies are obtainable through the use of the soluble MHC complexes, indicate that the antibodies must be obtainable through such methods, but there is no structural difference between antibodies that are so obtained and antibodies that may be obtained through other antibody screening methods, nor do the claims actually require the use of the disclosed screening methods for the production of such antibodies. The Examiner further states that the arguments presented are not directed to the invention being claimed, but to the use of antibodies that may be identified through the use of possibly improved screening methods by the present application, but which methods are not part of the claimed invention. Examiner's rejection is respectfully traversed.

Claims 141-149, 151-155, 158, 159, 212 and 213-214 have been cancelled herewith, to thereby render moot Examiner's rejections.

Reiter, Andersen, Chames and Matsushita

The Examiner has rejected claims 141-149, 151-159, 212, 213 and 214 under 35 U.S.C. §103(a) as being unpatentable over Reiter (1997, PNAS 94:4631-36) in view of Andersen (WO Publication No. 97/02342) and Chames (2000, PNAS 97:7969-74) as applied above, further in view of the teachings of Matsushita et al. (US Patent No. 5,591,829). Examiner's rejection is respectfully traversed.

Claims 141-149, 151-159, 212, 213 and 214 have been cancelled herewith, to thereby render moot Examiner's rejections.

Reiter, Andersen, Chames and Saito

The Examiner has rejected claims 141-149, 151-160, 212, 213 and 214 under 35 U.S.C. §103(a) as being unpatentable over Reiter (1997, PNAS 94:4631-36) in view of Andersen (WO Publication No. 97/02342) and Chames (2000, PNAS 97:

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7969-74) as applied above, further in view of the teachings of Saito (2001, J. Virol. 75:1065-71). Examiner's rejection is respectfully traversed.

Claims 141-149, 151-160, 212 and 213 and 214 have been cancelled herewith, to thereby render moot Examiner's rejections.

Reiter, Andersen, Chames and Carter

The Examiner has rejected claims 141-149, 151-155, 158, 159, 197, 198, 212, 213 and 214 under 35 U.S.C. §103(a) as being unpatentable over Reiter (1997, PNAS 94:4631-36) and Andersen (WO Publication No. 97/02342) and Chames (2000, PNAS 97:7969-74) as applied above, further in view of Carter (US Patent No. 6,054,297). Examiner's rejection is respectfully traversed.

Claims 141-149, 151-155, 158, 159, 197, 198, 212, 213 and 214 have been cancelled herewith, to thereby render moot Examiner's rejections.

Lev, Reiter and Andersen

The Examiner has rejected claims 141-149, 151-155, 158, 159, 212, 213 and 214 under 35 U.S.C. §103(a) as being unpatentable over Lev (Cancer Research 62:3184-94) in view of Reiter (1997, PNAS 94:4631-36) and Andersen (WO Publication No. 97/02342). Examiner's rejection is respectfully traversed.

Claims 141-149, 151-155, 158, 159, 212, 213 and 214 have been cancelled herewith, to thereby render moot Examiner's rejections.

Lev, Reiter, Andersen, Matsushita, Saito and Carter

The Examiner has rejected claims 141-149, 151-160, 197, 198, 212, 213 and 214 under 35 U.S.C. §103(a) as being unpatentable over Lev (Cancer Research 62:3184-94) in view of Reiter (1997, PNAS 94:4631-36) and Andersen (WO Publication No. 97/02342) and further in view of Matsushita, Saito and Carter as applied above. Examiner's rejection is respectfully traversed.

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Claims 141-149, 151-160, 197, 198, 212, 213 and 214 have been cancelled herewith, to thereby render moot Examiner's rejections.

In view of the above claim cancellations Applicants believe to overcome the 35 U.S.C. §103(a) rejections.


Double Patenting

Claims 141-149, 151-160, 197, 198, 213 and 214 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4, 8, 11 and 13 of co-pending US Application No. 11/629,194, or the co-pending claims in view of the teachings of Reiter, Chames and Andersen and any of Matsushita, Saito or Carter as described above. Examiner's rejection is respectfully traversed.

Claims 141-149, 151-160, 197, 198, 213 and 214 have been cancelled herewith, to thereby render moot Examiner's rejections.

In view of the foregoing amendments and remarks, it is Applicants opinion that claims 199 and 215 are deemed to be allowable. Applicants reserve the right to file the excluded matter in a continuation application. A prompt Notice of Allowance is respectfully and earnestly solicited.

Respectfully submitted,


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Date: July 6, 2009

Enclosure:

- Petition for Extension of Time (Two Months)
- Additional Claims Transmittal Fee